

### **REMARKS**

This submission under 37 C.F.R. 1.114 accompanies Applicant's Request for Continued Examination (RCE) and is in supplemental response to the final Office Action mailed July 5, 2006. By this response, claims 1, 8 and 22 are amended. No new matter has been added.

In view of the following discussion, Applicant submits that none of the claims now pending in the application are anticipated or obvious under the respective provisions of 35 U.S.C. §§ 102 and 103. Thus, Applicant believes that all of these claims are now in allowable form.

It is to be understood that Applicant does not acquiesce to the Examiner's characterizations of the art of record or to Applicants' subject matter recited in the pending claims. Further, Applicant is not acquiescing to the Examiner's statements as to the applicability of the art of record to the pending claims by filing the instant responsive amendments.

### **REJECTIONS**

#### **35 U.S.C. §102**

##### **Claim 22**

The Examiner has rejected claim 22 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent 5,477,262 to Banker et al. (hereinafter "Banker"). Applicant respectfully traverses the rejection.

"Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim" (Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co., 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984) (citing Connell v. Sears, Roebuck & Co., 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983)) (emphasis added). The Banker reference fails to disclose each and every element of the claimed invention, as arranged in the claim.

Independent claim 22 recites features of Applicant's' invention that Applicant considers to be inventive. In particular, independent claim 22 recites

22. A television delivery system for generating an interactive electronic program guide for display on a television connected to the set top

terminal, the system comprising:  
an operations center comprising:  
a means for packaging a plurality of television programs; and  
a means for generating program control information including data associated with the packaging of the television programs;  
a means for delivering the packaged television programs and the program control information from the operations center to a subscriber;  
a set top terminal, located at the subscriber's location, that receives the television programs from the operations center, the terminal comprising:  
a microprocessor for executing program instructions;  
a graphic memory;  
a graphic generator to generate graphics from the graphic memory;  
and  
a subscriber interface for choosing an option from displayed graphics and for effecting the memory location from which graphical information is generated by the graphics generator;  
wherein the terminal generates an electronic program guide comprising:  
a plurality of interactive menus, each corresponding to a level of interactivity and having one or more interactive menu items for selection; and  
a main menu having one or more main menu items for selection, which main menu items correspond to the interactive menus, wherein the menus are navigated using a user input, and wherein the main menu items and the interactive menu items are responsive to selection signals received from the user input; and  
a cursor for navigation of the menus, wherein the cursor movement corresponds to the user input and assists in the selection of one or more main menu items wherein the menus are linked in a tree sequence, and the subscriber interface comprising the option for bypassing at least one menu of the series of menus,  
wherein bypassing comprises skipping a menu level of the tree sequence. (emphasis added).

Specifically, the Banker reference fails to teach or suggest at least the feature of "wherein the menus are linked in a tree sequence, and the subscriber interface comprising the option for bypassing at least one menu of the series of menus, wherein bypassing comprises skipping a menu level of the tree sequence" as recited in independent claim 22.

Banker teaches a method and apparatus for providing an on-screen user interface for a subscription television terminal. Banker teaches on screen displays linked in a graphical structure. (See Banker, col. 20, ll. 43-54; FIG. 6).

The office action asserts Figs 6, 7A, 13A and 15A; column 21, lines 15-43, column 22, lines 27-45 and column 22, line 63-column 23, line 33 of Banker disclose menus linked in a tree sequence. Contrary to the Examiner's assertion, Banker only teaches on screen displays linked in a graphical structure. (See Banker, col. 20, ll. 43-54; FIG. 6). Applicant's menus linked in a tree sequence is linear and simpler than the graphical structure taught by Banker.

Furthermore, the office action asserts that Banker teaches in Fig. 7A; column 19, line 63-column 20, line 2 that a MENU key allows the user to bypass menus. However, exiting a menu is not equivalent to bypassing at least one menu in a series of menus, wherein bypassing comprises skipping a menu level of the tree sequence. Banker's MENU key does not bypass any menus. Banker merely teaches exiting from the feature access menu. Moreover, due to the on screen displays being linked in a graphical structure, Banker cannot teach bypassing, wherein bypassing comprises skipping a menu level of the tree sequence. Thus, Banker does not teach or suggest the subscriber interface comprising the option for bypassing at least one menu of the series of menus, wherein bypassing comprises skipping a menu level of the tree sequence, as claimed in claim 22.

Accordingly, Applicant submits that independent claim 22 is not anticipated by Banker and is patentable under 35 U.S.C. §102. Claims 2-7 depend, directly or indirectly from independent claim 1 while adding additional elements. Therefore, claims 2-7 are also patentable over Goldstein under §102 for at least the same reasons that claim 1 is patentable. Therefore, Applicant respectfully requests that the Examiner's rejection be withdrawn.

Therefore, Applicant respectfully requests that the Examiner's rejection be withdrawn.

### **35 U.S.C. §103**

#### **Claims 8-21**

The Examiner has rejected claims 8-21 under 35 U.S.C. §103(a) as being unpatentable over Banker in view of U.S. Patent 5,539,871 to Gibson (hereinafter "Gibson"). Applicant respectfully traverses the rejection.

The test under 35 U.S.C. §103 is not whether an improvement or a use set forth in a patent would have been obvious or non-obvious; rather the test is whether the claimed invention, considered as a whole, would have been obvious. Jones v. Hardy, 110 USPQ 1021, 1024 (Fed. Cir. 1984) (emphasis added). Moreover, the invention as a whole is not restricted to the specific subject matter claimed, but also embraces its properties and the problem it solves. In re Wright, 6 USPQ 2d 1959, 1961 (Fed. Cir. 1988) (emphasis added). The Banker and Gibson references, alone or in combination, fail to teach or suggest Applicant's invention as a whole.

Independent claim 8 recites features of Applicant's invention that Applicant considers to be inventive. In particular, independent claim 8 recites:

8. A television delivery system for generating an interactive electronic program guide for display on a television connected to a set top terminal, the system comprising:

an operations center comprising:

a means for packaging a plurality of television programs;

and

a means for generating program control information including data associated with the packaging of the television programs;

a means for delivering the packaged television programs and the program control information from the operations center to a subscriber;

a set top terminal, located at the subscriber's location, that receives the television programs from the operations center, the terminal comprising:

a microprocessor for executing program instructions;

a graphic memory;

a graphic generator to generate graphics from the graphic memory; and

a subscriber interface for choosing an option from displayed graphics and for effecting the memory location from which graphical information is generated by the graphics generator;

wherein the terminal senses one or more interactive features during a selected program, and generates an electronic program guide comprising:

a logo that is displayed on the television; and

an overlay menu that is displayed during the selected program, the overlay menu including the interactive features, wherein the logo indicates to a user that the interactive features are available for the selected program, and wherein the overlay menu is displayed in response to a signal received from a user input and wherein the overlay menu is in a series of menus that are linked in a tree sequence and the subscriber interface comprises the option for bypassing at least one menu of the series of menus,

wherein bypassing comprises skipping a menu level of the tree sequence. (emphasis added).

The Banker reference fails to teach or suggest at least Applicant's invention as described in claim 8. In particular, Banker teaches a method and apparatus for providing an on-screen user interface for a subscription television terminal. Banker teaches on screen displays linked in a graphical structure. (See Banker, col. 20, ll. 43-54; FIG. 6). Moreover, Banker teaches in Fig. 7A; column 19, line 63-column 20, line 2 that a MENU key allows the user to exit from feature access menu. Banker fails to teach or suggest Applicant's claimed terminal that the subscriber interface comprises the option for bypassing at least one menu of the series of menus, wherein bypassing comprises skipping a menu level of the tree sequence, as claimed in claim 8. As stated above, Banker's on screen displays linked in a graphical structure is not the same as menus linked in a tree sequence, as taught by the Applicant's invention. Additionally, Banker's MENU key does not bypass any menus, wherein bypassing comprises skipping a menu level of the tree sequence. It merely exits the menu.

The Gibson reference fails to bridge the substantial gap between the Banker reference and Applicant's invention. In particular, Gibson discloses a method and system in a data processing system for selectively associating stored data with an animated element within a multimedia presentation in a data processing system. At least one data set is created or identified within the data processing system. The data set is then associated within the data processing system with a selected animated element within the multimedia presentation. Thereafter, during the multimedia presentation, the existence of the data set and the association between the data set and the selected animated element is graphically indicated utilizing a rectangle surrounding the animated element, a blinking figure near the animated element or any other suitable graphic indicator. A user may elect to have the associated data set presented by selecting the additional graphic element associated with the specified animated element, or by selecting a "button" or other graphic indicator, during a specified period of time following the graphic indication.

Gibson fails to teach or suggest Applicant's claimed terminal that the subscriber interface comprises the option for bypassing at least one menu of the series of menus,

wherein bypassing comprises skipping a menu level of the tree sequence, as claimed in claim 8.

As such, Applicant's independent claim 8 is patentable under 35 U.S.C. §103(a) over Banker in view of Gibson. Claims 9-21 depend, directly or indirectly from independent claim 8 while adding additional elements. Therefore, claims 9-21 are also non-obvious and patentable over Banker in view of Gibson under §103. As such, Applicant respectfully requests that the Examiner's rejection of claims 8-21 under 35 U.S.C. §103(a) be withdrawn.

### **Claims 1-7**

The Examiner has rejected claims 1-7 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 5,410,326 to Goldstein (hereinafter "Goldstein") in view of Banker. Applicant respectfully traverses the rejection.

Independent claim 1 recites features of Applicant's invention that Applicant considers to be inventive. In particular, independent claim 1 recites:

1. A television delivery system for generating an interactive electronic program guide for display on a television connected to a set top terminal, the system comprising:

an operations center comprising:

a means for packaging a plurality of television programs; and

a means for generating program control information including data associated with the packaging of the television programs;

a means for delivering the packaged television programs and the program control information from the operations center to a subscriber;

a set top terminal, located at the subscriber's location, that receives the television programs from the operations center, the terminal comprising:

a microprocessor for executing program instructions;

a graphic memory;

a graphic generator to generate graphics from the graphic memory; and

a subscriber interface for choosing an option from displayed graphics and for effecting the memory location from which graphical information is generated by the graphics generator;

wherein the terminal generates an electronic program guide having a series of menus comprising:

a home menu;

a plurality of major menus displayed as menu options on the home menu;

a plurality of sub-menus displayed as menu options on the plurality

of major menus; and

a plurality of during programming menus enacted after selection of a program; wherein the series of menus are linked in a tree sequence and the subscriber interface comprises the option for bypassing at least one menu of the series of menus,

wherein bypassing comprises skipping a menu level of the tree sequence. (emphasis added).

The Goldstein and Banker references alone or in combination fail to teach or suggest Applicants' invention as a whole.

The Goldstein reference discloses a universal remote control device which is programmed to operate a variety of consumer products. The device is connected over a bidirectional link to either a cable converter or a telephone interface for receiving programming information. A touch screen display is employed on the programmable remote control device for displaying icons of functions to be selected. By selecting a particular displayed icon, a command can be decoded and sent via an infrared link to one or more appliances. Infrared codes for operating a virtually unlimited number of devices can be supplied to the device over the bidirectional communications link. Further, a provision is provided to permit a telephone connection to be set up between the user's home and a facility advertising products or services over a cable television broadcast. The touch screen display will permit the actual display of these advertisements as messages received from the cable head end system. Orders may be placed from the universal remote control device based on these displayed advertisements.

The Goldstein reference fails to teach or suggest wherein the terminal generates an electronic program guide having a series of menus. Goldstein only teaches display of "video text". (See Goldstein, col. 17, ll. 15-19.) Applicant respectfully submits that the limitation of "electronic program guide" does not include the broader term of "video text". For example, "video text" may simply be a screen with instructions for initializing various functions of a VCR or remote control. However, electronic program guide has a very specific meaning in the art that is not so broad as to encompass "video text".

Regardless, Goldstein also fails to teach or suggest at least wherein "the subscriber interface comprises the option for bypassing at least one menu of the series

of menus, wherein bypassing comprises skipping a menu level of the tree sequence" as recited in independent claim 1.

The Banker reference fails to teach or suggest at least Applicant's invention as described in claim 1. In particular, Banker teaches a method and apparatus for providing an on-screen user interface for a subscription television terminal. Banker teaches on screen displays linked in a graphical structure. (See Banker, col. 20, ll. 43-54; FIG. 6). Moreover, Banker teaches in Fig. 7A; column 19, line 63-column 20, line 2 that a MENU key allows the user to exit from feature access menu. Banker fails to teach or suggest Applicant's claimed terminal that the subscriber interface comprises the option for bypassing at least one menu of the series of menus, wherein bypassing comprises skipping a menu level of the tree sequence, as claimed in claim 1. As stated above, Banker's on screen displays linked in a graphical structure is not the same as menus linked in a tree sequence, as taught by the Applicant's invention. Additionally, Banker's MENU key does not bypass any menus, wherein bypassing comprises skipping a menu level of the tree sequence. It merely exits the menu.

As such, Applicant submits that independent claim 1 is patentable under 35 U.S.C. §103(a) over Goldstein in view of Banker. Claims 2-7 depend, directly or indirectly from independent claim 1 while adding additional elements. Therefore, claims 2-7 are also non-obvious and patentable over Goldstein in view of Banker under §103 for at least the same reasons that claim 1 is patentable over Goldstein in view of Banker under §103. As such, Applicant respectfully requests that the Examiner's rejection of claims 8-21 under 35 U.S.C. §103(a) be withdrawn.

### **CONCLUSION**

Thus, Applicant submits that none of the claims, presently in the application, are anticipated or obvious under the respective provisions of 35 U.S.C. §§102 and 103. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Eamon J. Wall or Jimmy Kim at (732) 530-9404 so that

appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

Dated: 10/4/06

  
\_\_\_\_\_  
Eamon J. Wall  
Registration No. 39,414  
Attorney for Applicant(s)

PATTERSON & SHERIDAN, LLP  
595 Shrewsbury Avenue, Suite 100  
Shrewsbury, New Jersey 07702  
Telephone: 732-530-9404  
Facsimile: 732-530-9808